

**BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

JAMES T. MIERSMA

10251 Hacienda Street
Bellflower California 90706

Case No. X56

OAH No. 2005030762

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Psychology, Department of Consumer Affairs, State of California, as its Decision in this matter.

This Decision shall become effective on August 4, 2005.

It is so ORDERED July 5, 2005.

Jaqueline B. Horn, Ph.D.

FOR THE BOARD OF PSYCHOLOGY
Jaqueline B. Horn, Ph.D.
President, Board of Psychology

1 BILL LOCKYER, Attorney General
of the State of California
2 JOHN E. DeCURE, State Bar No. 150700
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-8854
5 Facsimile: (213) 897-9395

6 Attorneys for Complainant

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8 **BEFORE THE**
9 **BOARD OF PSYCHOLOGY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

13 JAMES T. MIERSMA

14 10251 Hacienda Street
Bellflower California 90706

15 Respondent.

Case No. X56

OAH No. 2005030762

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 PARTIES

20 1. Thomas S. O'Connor (Complainant) is the Executive Officer of the Board
21 of Psychology, Department of Consumer Affairs, State of California (Board), and he brought this
22 action solely in his official capacity. Complainant is represented in this matter by Bill Lockyer,
23 Attorney General of the State of California, by John E. DeCure, Deputy Attorney General.

24 2. Respondent James T. Miersma (Respondent) is represented in this
25 proceeding by attorney A. Steven Frankel, Esq., whose address is 3527 Mt. Diablo Boulevard,
26 Suite 269, Lafayette, CA 94549.

27 3. On or about February 23, 2004, Respondent filed an application, dated
28 February 12, 2004, with the Board to obtain a Psychologist License.

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1 in these proceedings, and previously voluntarily underwent an extensive psychological evaluation
2 at the Board's request. Respondent also voluntarily waived his own therapist/patient
3 confidentiality and directed his current therapist to provide the Board with a written prognosis
4 and progress update, which was in fact submitted prior to the execution of this agreement.

5 CONTINGENCY

6 11. The parties understand and agree that facsimile copies of this Stipulated
7 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
8 force and effect as the originals.

9 12. In consideration of the foregoing admissions and stipulations, the parties
10 agree that the Board may, without further notice or formal proceeding, issue and enter the
11 following Disciplinary Order:

12 DISCIPLINARY ORDER

13 IT IS HEREBY ORDERED that if/ when Respondent James T. Miersma meets all
14 requirements for licensure, his Psychologist's License will be issued and automatically revoked.
15 The revocation will be stayed and the Respondent placed on five (5) years probation on the
16 following terms and conditions.

17 1. PSYCHOTHERAPY Within 90 days of the effective date of this
18 Decision, a therapist shall be selected by the respondent for approval by the Board. The therapist
19 shall 1) be a California-licensed psychologist with a clear and current license; 2) have no
20 previous business, professional, personal, or other relationship with respondent; and 3) not be the
21 same person as respondent's monitor. Respondent shall furnish a copy of this Decision to the
22 therapist. Psychotherapy shall, at a minimum, consist of one hour per week over a period of 52
23 weeks after which it may continue or terminate upon the written recommendation of the therapist
24 with approval by the Board or its designee. The Board or its designee may order a re-evaluation
25 upon receipt of the therapist's recommendation.

26 Respondent shall execute a release authorizing the therapist to provide to the
27 Board or its designee any information the Board deems appropriate, including quarterly reports of
28 respondent's therapeutic progress. It shall be respondent's responsibility to assure that the

1 required quarterly reports are filed by the therapist in a timely manner. If the therapist notifies
2 the Board that the therapist believes the respondent cannot continue to safely render
3 psychological services, respondent shall immediately cease accepting new patients and, in
4 accordance with professional standards, shall appropriately refer/terminate existing patients
5 within 30 days and shall not resume practice until a Board-appointed evaluator determines that
6 respondent is again safe to practice. During this period of non-practice, probation shall be tolled
7 and will not commence again until the period of non-practice is completed.

8 If, prior to the termination of probation, respondent is found not to be mentally fit
9 to resume the practice of psychology without restrictions, the Board shall retain continuing
10 jurisdiction over the respondent's license and the period of probation shall be extended until the
11 Board or its designee determines that the respondent is mentally fit to resume the practice of
12 psychology without restrictions.

13 Cost of psychotherapy is to be paid by the respondent.

14 2. PRACTICE MONITOR Within 90 days of the effective date of this
15 Decision, respondent shall submit to the Board or its designee for prior approval, the name and
16 qualifications of a psychologist who has agreed to serve as a practice monitor/billing monitor.
17 The monitor shall 1) be a California-licensed psychologist with a clear and current license; 2)
18 have no prior business, professional, personal or other relationship with respondent; and 3) not be
19 the same person as respondent's therapist. The monitor's education and experience shall be in the
20 same field of practice as that of the respondent.

21 Once approved, the monitor shall submit to the Board or its designee a plan by
22 which respondent's practice shall be monitored. Monitoring shall consist of a least one hour per
23 week of individual face to face meetings and shall continue during the entire probationary period.
24 The respondent shall provide the monitor with a copy of this Decision and access to respondent's
25 fiscal and/or patient records. Respondent shall obtain any necessary patient releases to enable the
26 monitor to review records and to make direct contact with patients. Respondent shall execute a
27 release authorizing the monitor to divulge any information that the Board may request. It shall be
28 respondent's responsibility to assure that the monitor submits written reports to the Board or its

1 designee on a quarterly basis verifying that monitoring has taken place and providing an
2 evaluation of respondent's performance.

3 Respondent shall notify all current and potential patients of any term or condition
4 of probation which will affect their therapy or the confidentiality of their records (such as this
5 condition which requires a practice monitor/billing monitor). Such notifications shall be signed
6 by each patient prior to continuing or commencing treatment.

7 If the monitor quits or is otherwise no longer available, respondent shall obtain
8 approval from the Board for a new monitor within 30 days. If no new monitor is approved
9 within 30 days, respondent shall not practice until a new monitor has been approved by the Board
10 or its designee. During this period of non-practice, probation will be tolled and will not
11 commence again until the period of non-practice is completed. Respondent shall pay all costs
12 associated with this monitoring requirement. Failure to pay these costs shall be considered a
13 violation of probation.

14 3. NOTIFICATION TO EMPLOYER Respondent shall provide each of his
15 or her employers, where respondent is providing psychological services, a copy of this Decision
16 and the Accusation or Statement of Issues before commencing employment. Notification to the
17 respondent's current employer shall occur no later than the effective date of the Decision.
18 Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of
19 compliance with this term of probation.

20 4. PROBATION COSTS Respondent shall pay the costs associated with
21 probation monitoring each and every year of probation. Such costs shall be payable to the Board
22 of Psychology at the end of each fiscal year (June 30). Failure to pay such costs shall be
23 considered a violation of probation.

24 The filing of bankruptcy by respondent shall not relieve respondent of the
25 responsibility to repay probation monitoring costs.

26 5. OBEY ALL LAWS Respondent shall obey all federal, state, and local
27 laws and all regulations governing the practice of psychology in California including the ethical
28 guidelines of the American Psychological Association. A full and detailed account of any and all

1 violations of law shall be reported by the respondent to the Board or its designee in writing
2 within seventy-two (72) hours of occurrence.

3 6. QUARTERLY REPORTS Respondent shall submit quarterly
4 declarations under penalty of perjury on forms provided by the Board or its designee, stating
5 whether there has been compliance with all the conditions of probation. Quarterly reports
6 attesting to non-practice status are to be submitted if probation is tolled.

7 7. PROBATION COMPLIANCE Respondent shall comply with the Board's
8 probation program and shall, upon reasonable notice, report to the Board of Psychology
9 probation monitor. Respondent shall contact the assigned probation monitor regarding any
10 questions specific to the probation order. Respondent shall not have any unsolicited or
11 unapproved contact with 1) complainants associated with the case; 2) Board members or
12 members of its staff; or 3) persons serving the Board as expert evaluators.

13 8. INTERVIEW WITH BOARD OR ITS DESIGNEE Respondent shall
14 appear in person for interviews with the Board or its designee upon request at various intervals
15 and with reasonable notice.

16 9. CHANGES OF EMPLOYMENT Respondent shall notify the Board in
17 writing, through the assigned probation monitor, of any and all changes of employment, location,
18 and address within 30 days of such change.

19 10. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-
20 STATE NON-PRACTICE In the event respondent should leave California to reside or to
21 practice outside the State, or for any reason should respondent stop practicing psychology in
22 California, respondent shall notify the Board or its designee in writing within ten days of the
23 dates of departure and return or the dates of non-practice within California. Non-practice is
24 defined as any period of time exceeding thirty days in which respondent is not engaging in any
25 activities defined in Sections 2902 and 2903 of the Business and Professions Code. During
26 periods of non-practice, the probationary period is tolled and respondent's license or registration
27 shall be placed on inactive status. The probationary period will not commence again until
28 respondent activates his or her license and resumes practicing psychology in the state of

1 California. However, the Board may require respondent to complete certain terms of probation
2 that are not associated with active practice and respondent will be required to pay cost recovery
3 and restitution as ordered.

4 11. EMPLOYMENT AND SUPERVISION OF TRAINEES If respondent is
5 licensed as a psychologist, he/she shall not employ or supervise or apply to employ or supervise
6 psychological assistants, interns or trainees during the course of this probation. Any such
7 supervisorial relationship in existence on the effective date of this probation shall be terminated
8 by respondent and/or the Board.

9 12. VIOLATION OF PROBATION If respondent violates probation in any
10 respect, the Board may, after giving respondent notice and the opportunity to be heard, revoke
11 probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to
12 Revoke Probation is filed against respondent during probation, the Board shall have continuing
13 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
14 is final. No Petition for Modification or Termination of Probation shall be considered while
15 there is an Accusation or Petition to Revoke Probation pending against respondent.

16 13. COMPLETION OF PROBATION Upon successful completion of
17 probation, respondent's license shall be fully restored.

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and
3 have fully discussed it with my attorney, A. Steven Frankel, Esq. I understand the stipulation and
4 the effect it will have on my Psychologist License. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Board of Psychology.

7 DATED: 5-10-05.

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9 
10 JAMES T. MIERSMA (Respondent)
Respondent

11
12 I have read and fully discussed with Respondent James T. Miersma the terms and
13 conditions and other matters contained in the above Stipulated Settlement and Disciplinary
14 Order. I approve its form and content.

15 DATED: 5/11/05.

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17 
18 A. STEVEN FRANKEL, ESQ.
Attorney for Respondent

1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
3 submitted for consideration by the Board of Psychology.

4
5 DATED: May 26, 2005.

6 BILL LOCKYER, Attorney General
7 of the State of California

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9 
10 JOHN E. DeCURE
11 Deputy Attorney General

12 Attorneys for Complainant

13 DOJ Matter ID: LA2004602187
14 miersma.SOLstip.wpd
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Exhibit A
Statement of Issues No. X56

BILL LOCKYER, Attorney General
of the State of California
JOHN E. DeCURE, State Bar No. 150700
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-8854
Facsimile: (213) 897-9395

Attorneys for Complainant

**BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIR
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No. X56

JAMES T. MIERSMA
10251 Hacienda Street
Bellflower, California 90706

STATEMENT OF ISSUES

Respondent.

Complainant alleges:

PARTIES

1. Complainant Thomas O'Connor ("Complainant") brings this Statement of Issues solely in his official capacity as the Executive Officer of the Board of Psychology, Department of Consumer Affairs, State of California ("Board").

2. On or about February 23, 2004, the Board received an application for a Psychologist License from Respondent James T. Meirsma ("Respondent"). On or about February 12, 2004, Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. Complainant denied the application on March 15, 2004.

JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2960 of the Code states, in pertinent part:

2 The board may refuse to issue any registration or license, or may issue a
3 registration or license with terms and conditions, or may suspend or revoke the
4 registration or license of any registrant or licensee if the applicant, registrant, or licensee
5 has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not
6 be limited to:

7 “(a) Conviction of a crime substantially related to the qualifications, functions or
8 duties of a psychologist or psychological assistant.

9

10 (n) The commission of any dishonest, corrupt, or fraudulent act.

11 ”

12 5. Section 475 of the Code states, in pertinent part:

13 “(a) Notwithstanding any other provisions of this code, the provisions of this
14 division shall govern the denial of licenses on the grounds of:

15 “. . . .

16 (2) Conviction of a crime.

17 (3) Commission of any act involving dishonesty, fraud or deceit with the intent to
18 substantially benefit himself or another, or substantially injure another.

19

20 (b) Notwithstanding any other provisions of this code, the provisions of this
21 division shall govern the suspension and revocation of licenses on grounds specified in
22 paragraphs (1) and (2) of subdivision (a) .

23 (c) A license shall not be denied, suspended, or revoked on the grounds of a lack
24 of good moral character or any similar ground relating to an applicant's character,
25 reputation, personality, or habits.”

26 6. Section 480 of the Code states:

27 “(a) A board may deny a license regulated by this code on the grounds that the
28 applicant has one of the following:

1 “(1) Been convicted of a crime. A conviction within the meaning of this section
2 means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action
3 which a board is permitted to take following the establishment of a conviction may be taken
4 when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal,
5 or when an order granting probation is made suspending the imposition of sentence, irrespective
6 of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

7 “(2) Done any act involving dishonesty, fraud or deceit with the intent to
8 substantially benefit himself or another, or substantially injure another; or

9 “(3) Done any act which if done by a licentiate of the business or profession in
10 question, would be grounds for suspension or revocation of license.

11 “The board may deny a license pursuant to this subdivision only if the crime or act
12 is substantially related to the qualifications, functions or duties of the business or profession for
13 which application is made.

14 “(b) Notwithstanding any other provision of this code, no person shall be denied a
15 license solely on the basis that he has been convicted of a felony if he has obtained a certificate of
16 rehabilitation under Section 4852.01 and following of the Penal Code or that he has been
17 convicted of a misdemeanor if he has met all applicable requirements of the criteria of
18 rehabilitation developed by the board to evaluate the rehabilitation of a person when considering
19 the denial of a license under subdivision (a) of Section 482.

20 “(c) A board may deny a license regulated by this code on the ground that the
21 applicant knowingly made a false statement of fact required to be revealed in the application for
22 such license.”

23 7. Section 2964.6 of the Code states:

24 An administrative disciplinary decision that imposes terms of probation may
25 include, among other things, a requirement that the licensee who is being placed on probation
26 pay the monetary costs associated with monitoring the probation.

27 8. Section 125.3 of the Code states, in pertinent part, that the Board may
28 request the administrative law judge to direct a licentiate found to have committed a violation or

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case.

3 FIRST CAUSE FOR DENIAL OF APPLICATION

4 (Criminal Convictions)

5 9. Respondent's application is subject to denial under sections 475,
6 subdivision (a)(2), and 2960, subdivision (a) of the Code, in that respondent has been criminally
7 convicted of crimes substantially related to the qualifications, functions, and duties of a
8 psychologist. The circumstances are as follows:

9 A. On or about May 5, 1994, Respondent was convicted in Orange
10 County Superior Court for one count of violating Penal Code sections 484 and 488 (petty
11 theft). In the current application process for a Psychologist License, Respondent admits
12 that the crime involved was shoplifting.

13 B. On or about February 21, 1995, Respondent was convicted in
14 Orange County Superior Court for one count of violating Penal Code section 488 (petty
15 theft). In the current application process for a Psychologist License, Respondent admits
16 that the crime involved was shoplifting.

17 C. On or about April 4, 2001, Respondent was convicted, following a
18 guilty plea, in Los Angeles County Superior Court for one count of violating Penal Code
19 section 666 (petty theft). Under this section, a subsequent conviction for petty theft is a
20 felony. However, the People of the State of California alleged the crime as a
21 misdemeanor pursuant to Penal Code section 17, subsections (b)(4) prior to Respondent
22 entering his guilty plea. In his current application for a Psychologist License, Respondent
23 stated that the basis of the crime was shoplifting.

24 SECOND CAUSE FOR DENIAL OF APPLICATION

25 (Dishonest or Corrupt Acts)

26 10. Respondent's application is subject to denial under sections 475,
27 subdivision (a)(3), and 2960, subdivision (n) of the Code, in that respondent has been criminally
28 convicted of crimes involving dishonest, corrupt, or fraudulent acts. The circumstances are as

1 follows:


2 A. Paragraph 9 is incorporated herein as if set forth in full.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the Board of Psychology issue a decision:

- 6 1. Denying the application of James T. Meirsma for a Psychologist License;
7 2. Taking such other and further action as deemed necessary and proper.

8
9 DATED: December 10, 2004.

10
11 
12 THOMAS O'CONNOR
13 Executive Officer
14 Board of Psychology

15 Department of Consumer Affairs
16 State of California
17 Complainant

18 LA2004602187

19 Miersma.SOI.wpd
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